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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/800,565

03/15/2004

Roger Geoffrey Halstead

23488

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24932 7590 05/13/2009  
LAUBSCHER & LAUBSCHER, P.C.  
1160 SPA ROAD  
SUITE 2B  
ANNAPOLIS, MD 21403

EXAMINER

SMITH, NKEISHA

ART UNIT

PAPER NUMBER

3632

NOTIFICATION DATE

DELIVERY MODE

05/13/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LLAUBSCHER@LAUBSCHERLAW.COM  
info@laubscherlaw.com  
asimonini@laubscherlaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/800,565	<b>Applicant(s)</b> HALSTEAD, ROGER GEOFFREY	
	<b>Examiner</b> NKEISHA J. SMITH	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12, 16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following correspondence is a non-final Office Action for application no. 10/800,565 for a POSITION ADJUSTMENT MECHANISM, filed on 3/15/2004. This correspondence is in response to applicant's request for continued examination filed on 4/16/2009. Claims 1-9, 11, 12, 16 and 17 are pending. Claims 2 and 11 are withdrawn. Claim 10, 13-15, 18 and 19 are cancelled.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/23/2009 has been entered.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 16 and 17 recite the limitation "the cylindrical portions" therein. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-9, 11, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn (U.S. Pat. 4,819,770) in view of Rothschild (EP 0165190).

Regarding claim 1, Hahn teaches a position adjustment mechanism (10), comprising two cylindrical portions (16, 17), a first one of the cylindrical portions (16) being slidably disposed inside a second one of the cylindrical portions (17), said second cylindrical portion defining a chamber having a closed upper end containing a fluid inlet/outlet opening (20a), said first cylindrical portion comprising a piston arranged in sealing relation within said chamber, and further comprising means for moving said cylindrical portions relative to each other by introducing and removing pressurized fluid to said chamber via said inlet/outlet opening in said second cylindrical portion, but does not teach that one of the cylindrical portions has at least three detents and the other cylindrical portion has at least three members, the members being removable from said detents, wherein the detents and members are equally spaced around the first and second cylindrical portions.

Rothschild, however, teaches a position adjustment mechanism (Fig. 2) comprising two cylindrical portions (4, 5), a first one of the cylindrical portions (4) being slidably disposed inside a second one of the portions (5), wherein one of the cylindrical portions has a detents (P2) and the other portion has a member (2), the member being removable from the detents. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the mechanism of Hahn wherein one of the cylindrical portions has detents and the other cylindrical portion has a member, the member being removable from the detents in order to provide and maintain the mechanism in a lengthened and retracted state at various levels, in view of Rothschild.

Neither reference teaches that the one cylindrical portion has three detents and the other cylindrical portion has three members, wherein the detents and members are equally spaced around the first and second portions. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the mechanism of Hahn and Rothschild having three detents and three members wherein the detents and members are equally spaced around the first and second portions in order to give stronger support to the height adjustment mechanism and since the mere duplication of the essential working parts of a device involves only routine skill in the art. Further, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to equally space the detents and members around the first and second cylindrical portions because the equal spacing of the detents and members

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around the cylindrical portions would provide uniformity in the adjustment of the structure.

Regarding claim 3, Hahn and Rothschild teach the mechanism of claim 1, wherein Rothschild teaches that the cylindrical portions have axes arranged generally vertical, and said detents are upwardly open.

Regarding claim 4, Hahn and Rothschild teach the mechanism of claim 1, wherein Rothschild teaches that said detents are formed on said first cylindrical portion (Fig. 2).

Regarding claim 5, Hahn and Rothschild teach the mechanism of claim 4, wherein Rothschild teaches that said members are formed on said second cylindrical portion (Fig. 2).

Regarding claim 6, Hahn and Rothschild teach the mechanism of claim 5, wherein Rothschild teaches that said detents each form a part of a groove formed on said first portion, the members engaging in respective said grooves.

Regarding claim 7, Hahn and Rothschild teach the mechanism of claim 6, wherein Rothschild teaches that said grooves form respective circuits, said members moving around the circuit as the portions move from their first position to their second position and back to their first position.

Regarding claim 8, Hahn and Rothschild teach the mechanism of claim 6, having an odd number of grooves and members, greater than 1.

Regarding claim 9, Hahn and Rothschild teach the mechanism of claim 1, wherein Hahn teaches that one of the portions is in contact with a first body (8) and the other of said portions is in contact with a second body (11b).

Regarding claim 12, Hahn teaches an apparatus (10), comprising a first cylindrical element comprising a piston (16), a second cylindrical element (17), said second cylindrical element defining a chamber having a closed upper end containing a fluid inlet/outlet opening (20a), and said piston arranged in sealing relation within said chamber, and means for moving said cylindrical elements relative to each other by introducing and removing pressurized fluid to said chamber via said inlet/outlet opening in said second cylindrical portion, but does not teach that a cam circuit is provided on a first one of said cylindrical elements, a cam follower is provided on a second one of the cylindrical elements and wherein the cam circuit directs the cam follower around the circuit.

Rothschild, however, teaches a position adjustment mechanism (Fig. 2) comprising two cylindrical portions (4, 5), a first one of the cylindrical portions (4) being slidably disposed inside a second one of the portions (5), wherein a cam circuit (P2) is provided on a first one of said cylindrical elements, a cam follower (2) is provided on a second one of the cylindrical elements and wherein the cam circuit directs the cam follower around the circuit. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the mechanism of Hahn with a cam circuit provided on a first one of said cylindrical elements, a cam follower provided on a second one of the cylindrical elements and wherein the cam circuit directs the cam

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follower around the circuit in order to provide and maintain the apparatus in a lengthened and retracted state at various levels, in view of Rothschild.

Regarding claim 16, as best understood, Hahn and Rothschild teach the apparatus of claim 12, where Rothschild teaches a plurality of cam circuit/cam follower combinations (two), but does not teach that the combinations are positioned non-diametrically around a circumference of the cylindrical elements. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the apparatus of Hahn and Rothschild where a plurality of cam circuit/cam follower combinations are positioned non-diametrically around a circumference of the cylindrical elements as a matter of design choice since such a modification would have involved a mere change in the orientation of the component and applicant has not shown how the chosen orientation is critical.

Regarding claim 17, as best understood, Hahn and Rothschild teach the mechanism of claim 16, but do not teach that three cam circuit/cam follower combinations are provided at equal intervals around a circumference of the cylindrical elements. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the position adjustment mechanism of Hahn and Rothschild having three cam circuit/cam follower combinations provided at equal intervals around a circumference of the cylindrical elements in order to give stronger support to the apparatus and since the mere duplication of the essential working parts of a device involves only routine skill in the art. Further, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to equally space the



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cam circuit/cam follower combinations because the equal spacing of the detents and members around the cylinders would provide uniformity in the adjustment of the structure.

### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-9, 11, 12, 16 and 17 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NKEISHA J. SMITH whose telephone number is (571)272-5781. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NKEISHA J. SMITH/  
Examiner, Art Unit 3632

May 8, 2009

/J. ALLEN SHRIVER II/  
Supervisory Patent Examiner, Art Unit 3632